

AMENDED IN SENATE APRIL 21, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1004

Introduced by Senator Hill

February 10, 2016

An act to add and repeal Chapter 2.55 (commencing with Section 1000.7) of Title 6 of Part 2 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1004, as amended, Hill. Transitional youth diversion program.

Existing law provides that entry of judgment may be deferred with respect to a defendant who is charged with certain crimes involving possession of controlled substances, who pleads guilty to the charge or charges, and who meets certain criteria, including that he or she has no prior convictions for any offense involving controlled substances and has had no felony convictions within the 5 years prior, as specified. Existing law requires the criminal charge or charges to be dismissed if the defendant has performed satisfactorily in a specified program during the period in which deferred entry of judgment was granted.

This bill would authorize specified counties to establish a pilot program to operate a transitional youth diversion program for eligible defendants. The bill would authorize a defendant to participate in the diversion program within the county's juvenile hall if that person is charged with committing an offense, except as specified, he or she pleads guilty to the charge or charges, and the probation department determines that the person meets specified requirements, including that the defendant is 18 years of age or older, but under 21 years of age on the date the offense was committed, is suitable for the program, and shows the ability to benefit from services generally reserved for

delinquents. The bill would require the probation department to develop a plan for reentry services.

The bill would require the court to grant deferred entry of judgment if the eligible defendant consents to participate in the program, waives his or her right to a speedy trial or a speedy preliminary hearing, pleads guilty to the charge or charges, and waives time for the pronouncement of judgment. The bill would also require the court to render a finding of guilt to the charge or charges pled, enter judgment, and schedule a sentencing hearing, and would require the return of the defendant to custody in a county jail if the court finds that the defendant is performing unsatisfactorily in the program or that the defendant is not benefiting from the services in the program. If the defendant has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period, the bill would require the court to dismiss the criminal charge or charges.

The bill would require a county, prior to establishing a pilot program, to apply to the Board of State and Community Corrections for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. The bill would require the board to review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. The bill would also require each county to establish a multidisciplinary team consisting of representatives of specified local entities. The team would be required to meet periodically to review and discuss the implementation, practices, and impact of the program. The bill would also require the county to evaluate the pilot program.

The bill would require the probation department to submit data relating to the effectiveness of the program to the Division of Recidivism Reduction and Re-Entry, within the Department of Justice. The bill would prohibit a defendant participating in the program from coming into contact with minors within the juvenile hall and would require a participating county to work with the Board of State and Community Corrections hall, would prohibit a defendant from serving longer than one year in custody within a county's juvenile hall pursuant to the program, and would require the board to review a county's pilot program to ensure compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, as specified.

The authority conferred by this bill would be repealed on January 1, 2020.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Alameda, Butte, Napa, Nevada, and Santa Clara.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.55 (commencing with Section 1000.7)
2 is added to Title 6 of Part 2 of the Penal Code, to read:

3
4 CHAPTER 2.55. TRANSITIONAL YOUTH DIVERSION PROGRAM
5

6 1000.7. (a) The following counties may establish a pilot
7 program pursuant to this section to operate a transitional youth
8 diversion program for eligible defendants described in subdivision

9 (b):

10 (1) County of Alameda.

11 (2) County of Butte.

12 (3) County of Napa.

13 (4) County of Nevada.

14 (5) County of Santa Clara.

15 (b) A defendant may participate in a transitional youth diversion
16 program within the county's juvenile hall if that person is charged
17 with committing an offense, other than the offenses listed under
18 subdivision (d), he or she pleads guilty to the charge or charges,
19 and the probation department determines that the person meets all
20 of the following requirements:

21 (1) Is 18 years of age or older, but under 21 years of age on the
22 date the offense was committed.

23 (2) Is suitable for the program after evaluation using a risk
24 assessment tool, as described in subdivision (c).

25 (3) Shows the ability to benefit from services generally reserved
26 for delinquents, including, but not limited to, cognitive behavioral
27 therapy, other mental health services, and age appropriate
28 educational, vocational, and supervision services, that are currently
29 deployed under the jurisdiction of the juvenile court.

30 (4) Meets the rules of the juvenile hall.

1 (5) Does not have a prior or current conviction for committing
2 an offense listed under subdivision (c) of Section 1192.7 or
3 subdivision (c) of Section 667.5.

4 (6) Is not required to register as a sex offender pursuant to
5 Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

6 (c) The probation department, in consultation with the superior
7 court, district attorney, and sheriff of the county or the
8 governmental body charged with operating the county jail, shall
9 develop an evaluation process using a risk assessment tool to
10 determine eligibility for the program.

11 (d) The commission by the defendant of one or more of the
12 following offenses makes him or her not eligible for the program:

13 (1) An offense listed under subdivision (c) of Section 1192.7.

14 (2) An offense listed under subdivision (c) of Section 667.5.

15 (3) An offense listed under subdivision (b) of Section 707 of
16 the Welfare and Institutions Code.

17 (e) The court shall grant deferred entry of judgment if an eligible
18 defendant consents to participate in the program, waives his or her
19 right to a speedy trial or a speedy preliminary hearing, pleads guilty
20 to the charge or charges, and waives time for the pronouncement
21 of judgment.

22 (f) (1) If the probation officer determines that the defendant is
23 not eligible for the transitional youth diversion program or the
24 defendant does not consent to participate in the program, the
25 proceedings shall continue as in any other case.

26 (2) If it appears to the probation department that the defendant
27 is performing unsatisfactorily in the program as a result of the
28 commission of a new crime or the violation of any of the rules of
29 the juvenile hall or that the defendant is not benefiting from the
30 services in the program, the probation department may make a
31 motion for entry of judgment. After notice to the defendant, the
32 court shall hold a hearing to determine whether judgment should
33 be entered. If the court finds that the defendant is performing
34 unsatisfactorily in the program or that the defendant is not
35 benefiting from the services in the program, the court shall render
36 a finding of guilt to the charge or charges pled, enter judgment,
37 and schedule a sentencing hearing as otherwise provided in this
38 code, and the probation department, in consultation with the county
39 sheriff, shall remove the defendant from the program and return
40 him or her to custody in county jail. The mechanism of when and

1 how the defendant is moved from custody in juvenile hall to
2 custody in a county jail shall be determined by the local justice
3 stakeholders.

4 (3) If the defendant has performed satisfactorily during the
5 period in which deferred entry of judgment was granted, at the end
6 of that period, the court shall dismiss the criminal charge or
7 charges.

8 *(g) A defendant shall serve no longer than one year in custody*
9 *within a county's juvenile hall pursuant to the program.*

10 ~~(g)~~

11 *(h)* The probation department shall develop a plan for reentry
12 services, including, but not limited to, housing, employment, and
13 education services, as a component of the program.

14 ~~(h)~~

15 *(i)* The probation department shall submit data relating to the
16 effectiveness of the program to the Division of Recidivism
17 Reduction and Re-Entry, within the Department of Justice,
18 including recidivism rates for program participants as compared
19 to recidivism rates for similar populations in the adult system
20 within the county.

21 ~~(i)~~

22 *(j)* A defendant participating in the program pursuant to this
23 section shall not come into contact with minors within the juvenile
24 hall for any purpose, including, but not limited to, housing,
25 recreation, or education.

26 *(k) Prior to establishing a pilot program pursuant to this section,*
27 *the county shall apply to the Board of State and Community*
28 *Corrections for approval of a county institution as a suitable place*
29 *for confinement for the purpose of the pilot program. The board*
30 *shall review and approve or deny the application of the county*
31 *within 30 days of receiving notice of this proposed use. In its*
32 *review, the board shall take into account the available*
33 *programming, capacity, and safety of the institution as a place for*
34 *the confinement and rehabilitation of individuals within the*
35 *jurisdiction of the criminal court, and those within the jurisdiction*
36 *of the juvenile court.*

37 ~~*(j) A county that establishes a pilot program pursuant to this*~~
38 ~~*section shall work with the*~~

39 *(l) The Board of State and Community Corrections shall review*
40 *a county's pilot program to ensure compliance with requirements*

1 of the federal Juvenile Justice and Delinquency Prevention Act of
2 1974 (42 U.S.C. Sec. 5601 et seq.), as amended, relating to “sight
3 and sound” separation between juveniles and adult inmates.

4 ~~(k)~~

5 (m) (1) This section applies to a defendant ~~that~~ *who* would
6 otherwise serve time in custody in a county jail. Participation in a
7 program pursuant to this section shall not be authorized as an
8 alternative to a sentence involving community supervision.

9 (2) *Each county shall establish a multidisciplinary team that*
10 *shall meet periodically to review and discuss the implementation,*
11 *practices, and impact of the program. The team shall include*
12 *representatives from the following:*

13 (A) *Probation department.*

14 (B) *The district attorney’s office.*

15 (C) *The public defender’s office.*

16 (D) *The sheriff’s department.*

17 (E) *Courts located in the county.*

18 (F) *The county board of supervisors.*

19 (G) *The county health and human services department.*

20 (H) *A youth advocacy group.*

21 (n) *A county that establishes a pilot program pursuant to this*
22 *section shall conduct an evaluation of its impact and effectiveness.*
23 *The evaluation shall include, but not be limited to, monitoring the*
24 *program’s effect on minors in the juvenile facility, if any, and its*
25 *effectiveness with respect to program participants, including*
26 *outcome-related data for program participants compared to young*
27 *adult offenders sentenced for comparable crimes.*

28 ~~(t)~~

29 (o) This chapter shall remain in effect only until January 1,
30 2020, and as of that date is repealed, unless a later enacted statute,
31 that is enacted before January 1, 2020, deletes or extends that date.

32 SEC. 2. The Legislature finds and declares that a special law
33 is necessary and that a general law cannot be made applicable
34 within the meaning of Section 16 of Article IV of the California
35 Constitution because of the unique circumstances in the Counties
36 of Alameda, Butte, Napa, Nevada, and Santa Clara. Recent research
37 on the adolescent brain development has found that brain
38 development continues well after an individual reaches 18 years
39 of age. This bill would therefore allow for the criminal justice
40 system to apply the most recent brain development research to its

1 practices in these counties by allowing certain transitional age
2 youth access to age-appropriate rehabilitative services available
3 in the juvenile justice system when an assessment determines that
4 the individual would benefit from the services, with the aim of
5 reducing the likelihood of the youth continuing in the criminal
6 justice system.

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